

TITLE XV: LAND USAGE

Chapter

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CHAPTER 149: BUILDING DEPARTMENT

Section

149.00 Building Department

§ 149.00 BUILDING DEPARTMENT.

- (A) Pursuant to Charter § 3.02 there is established a Department of Building.
- (B) The department head shall be the Building Commissioner who shall be appointed as provided by Charter § 3.03. The Building Commissioner shall also be the Inspector of Buildings of the city.
- (C) The Building Department is responsible for the administration, interpretation and enforcement of all codes and regulations pertaining to the Office of Inspectors of Buildings and the administration, interpretation and enforcement of land use codes and regulations.
- (D) The Building Department shall provide staff support to the Zoning Board of

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Adjustment and shall administer the processing of variances, special exceptions and administrative appeals under the direction of the Zoning Board of Adjustment.

(1) The administrative support person of the Zoning Board of Adjustment is hereby transferred from the Planning and Community Development Department to the Building Department.

(2) The Building Department shall also perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98; Am. Ord. passed 8-5-03)

CHAPTER 150: HOUSING CODE

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GENERAL PROVISIONS

§ 150.001 SHORT TITLE.

This chapter shall be known and shall be cited as the “Housing Code of the City of Manchester, New Hampshire.”

(’71 Code, § 13-1) (Ord. passed 5-31-66)

§ 150.002 DEFINITIONS.

(A) *Construction and interpretation of certain words.* Whenever the words **DWELLING, DWELLING UNIT, ROOMING UNIT, ROOMING HOUSE, or PREMISES,** are used in this chapter, they shall be constructed as though they were followed by the words “or any part thereof.”

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A building, the use of which is incidental to that of the main building and which is located on the same lot.

APPROVED. As applied to a written policy or standard of the Code Enforcement Agency.

BASEMENT. Any portion of the building partly underground and having at least one-half of its height above the average grade.

BOARD. The Housing Code Board.

BUILDING. Any structure or part of a structure.

BUILDING CODE. The current Building Code of the city.

CELLAR. Any portion of the building partly or completely underground and having at least one-half if its height below average grade.

CERTIFICATE OF COMPLIANCE. A document issued by the Housing Code Department attesting that the designated dwelling, dwelling unit, or rooming house on inspection

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was found to be in compliance with this chapter. Certificates shall be prepared by the Housing Code Department and shall contain such information as is required by the Department, including a description of the rental unit, the expiration date of the certificate, and requirements as to reapplication and reinspection and renewal.

CONDOMINIUM UNIT. A dwelling unit together with the undivided interest in the common area appertaining to that unit.

CROSSWIRING. The condition where all or part of the electric service for one dwelling unit is connected to or paid for through the electric meter that serves another dwelling unit.

DILAPIDATED. No longer adequate for the purpose or use for which it was originally intended.

DUMPSTER. A large sturdy metal container, with a capacity exceeding two cubic yards, for the collection of rubbish and garbage, designed to be emptied or transported to a dump by a specially designed truck.

DWELLING. Any building, structure, trailer, mobile home or camp or part thereof, used and occupied for human habitation or intended to be so used; and includes any appurtenance belonging thereto or usually enjoyed therewith.

DWELLING UNIT. A suite of one or more rooms located within a dwelling with facilities for regular cooking, and occupied or intended to be occupied by one or more individuals living in common.

EXITWAY. An unobstructed passageway to the out-of-doors at ground level.

EXTERMINATION. The control and elimination of insects, rodents, vermin, and other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE ROOM. A room which is designed for or may be used for living, sleeping, eating, or cooking. Storerooms, bathrooms, toilets, closets, halls, or spaces in attics or spaces in basements are not **HABITABLE ROOMS** except as permitted in this chapter.

HAZARDOUS BUILDING. Any building which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

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HOUSING CODE DEPARTMENT. The Building Commissioner.

INFESTATION. The presence within or contiguous to a structure or premises of insects, rodents, vermin, and other pests.

INTERIM RENTAL PERMIT. A document issued by the Housing Code Department authorizing the owner to rent, offer for rent, or allow the occupancy of the designated dwelling, dwelling unit, or rooming house for a specified term pending further action. Permits shall be prepared by the Housing Code Department and shall contain such information as is required by the Director including a description of the rental unit in question, the expiration date of the permit and requirements as to application, inspections, and certificates of compliance.

LEAD-BASED PAINT. Any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the safe level of lead in residential paint and paint products.

LET FOR OCCUPANCY or LET. To allow the use of a dwelling unit by any person or persons with or without remuneration.

MULTI-FAMILY. More than two dwelling units.

OCCUPANT. Any person (including owner or agent) living and sleeping in a dwelling unit or having actual possession of the dwelling or rooming unit.

OWNER. Any person or agent having a legal or equitable interest in the property or premises or control over its use or disposition. It shall include any part-owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant in entirety of the whole or any part of the premises.

PERSON. Any individual, association, club, society, firm, partnership, or body corporate or politic.

PLUMBING or PLUMBING FIXTURE. Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste laboratories, bathtubs, shower baths, installed clothes washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

PREMISES. A plot or parcel of land including any dwelling or accessory structure thereon.

PUBLIC NUISANCE. Includes the following:

(a) The physical condition, or use of any premises regarded as a public nuisance at common law.

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(b) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures.

(c) Any premises which have unsanitary sewerage or plumbing facilities.

(d) Any premises designated as unsafe for human habitation or use.

(e) Any premises from which the plumbing, heating, and/or facilities required in this chapter have been removed, or from which utilities have been disconnected, destroyed, removed, or rendered ineffective, or the required precautions against trespassers have not been provided.

(f) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure as to endanger life, limb, or property.

(g) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds.

(h) Any structure or building that is in a state of dilapidation, deterioration, or decay; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

REMOTE EXITWAY. Exitways to be arranged or constructed as to minimize any possibility that both exitways may be blocked by any one fire or other emergency.

RENOVATION. A building and its facilities made to conform to present day minimum standards of sanitation, fire, and life safety.

RENTAL PROPERTY. Any residential unit in a building, dwelling, or rooming house which provided permanent or transient living facilities and occupied by tenants on a rental basis. This term shall include, but not be limited to, hotels, motels, and dormitories so long as they are offered for rent or allowed to be occupied by others.

ROOMING HOUSE. Any structure containing three or more rooming units, in which space is let by the owner or operator to persons who are not members of the family.

ROOMING UNIT. A dwelling unit which consists of a room or suite of two or more rooms without facilities for regular cooking, occupied or intended for occupancy by one or more individuals living in common. Whenever the term **DWELLING UNIT** is used in §§ 150.035 through 35.090 of this chapter, it shall also mean **ROOMING UNIT** unless a different meaning clearly appears in the context.

RUBBISH. The combustible and noncombustible waste materials, except

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garbage, and the term shall include the residue from burning wood, coal, coke, and other combustible materials, papers, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SMOKE DETECTION DEVICE. A wall- or ceiling-mounted assembly containing an ionization chamber or photoelectric type of smoke detector, control equipment, and audible alarm in one unit which detects visible or invisible particles of combustion and which, upon detection of smoke, activates the alarm; which device is listed by a nationally recognized laboratory that maintains periodic inspections of the list equipment where produced, and whose listing states either that the equipment meets nationally recognized standards or that the equipment has been tested and found suitable for use in a specified manner.

SPECIAL INSPECTIONS. Any requested inspection which is not a part of the city's regular inspection program.

STRUCTURE. Assembly of materials forming a construction for occupancy or use, including among others, buildings, stadiums, tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, open sheds, coal bins, shelters, fences, and display signs.

TOTER. A garbage/rubbish container with a fixed hinged lid, wheels and a horizontal handle. The container must meet the approval of the Public Works Director and is typically 65 to 95 gallons in size.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any space:

- (a) *Mechanical:* ventilation by power-driven devices.
- (b) *Natural:* ventilation by opening to outer air, through windows, skylights, doors, louvers, or stack wind driven devices.

WORKMANLIKE. Such maintenance and repairs shall be made in a reasonable and skillful manner.

('71 Code, § 13-2) (Ord. passed 8-2-60; Am. Ord. passed 4-15-80; Am. Ord. passed 3-16-82; Am. Ord. passed 9-2-86; Am. Ord. passed 10-15-91; Am. Ord. passed 2-15-94; Am. Ord. passed 6-21-94; Am. Ord. passed 11-5-03)

§ 150.003 FINDING OF FACT.

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The Board of Mayor and Aldermen finds that there exists in the municipality dwellings which are unfit for human habitation due to dilapidation, dangerous defects which are likely to result in fire, accidents, or other calamities, unhealthy or hazardous or dilapidated conditions.

('71 Code, § 13-3) (Ord. passed 8-2-60)

§ 150.004 EXCEPTIONS TO REGULATIONS.

Any dwelling, building, or structure situated within a historic district established under R.S.A. 31:89-b may be approved by the Board of Mayor and Aldermen as a special exception, after a public hearing, and the provisions of this chapter may be waived in their application to such dwelling, building, or structure in whole or in part or so modified as the Board of Mayor and Aldermen may specify.

('71 Code, § 13-4) (Ord. passed 5-31-66)

Statutory reference:

Buildings within historic district as a special exception, R.S.A. 647:46

GENERAL REGULATIONS

§ 150.015 OVERCROWDING.

No person shall let to be occupied and no person shall occupy any dwelling or dwelling unit which is overcrowded. Overcrowding is determined by the following:

(A) No habitable room other than a kitchen or dining alcove, shall contain less than 65 square feet of floor area, nor shall the least horizontal dimension of such room be less than seven feet.

(B) The total area in all habitable rooms in a dwelling unit shall be such as to provide at least 65 square feet of floor area per person.

(C) Every sleeping room or room used for sleeping purposes shall have at least 50 square feet of floor area per person. Children under one year of age shall not be counted, and a child more than one year of age but under ten years shall be deemed one-half person.

('71 Code, § 13-90) (Ord. passed 4-15-80) Penalty, see § 10.99

§ 150.016 FLOOR AREA COMPUTATION.

In computing floor area under § 150.015 of this subchapter, the space used for closets or other enclosed spaces and, in the case of rooms with sloping ceilings, portions of such rooms with less than four feet in height shall be excluded in computing the area.

('71 Code, § 13-91) (Ord. passed 4-15-80)

§ 150.017 WAIVER.

The Department, on application from the owner or occupant, may waive the provisions of § 150.016 of this subchapter for a period not to exceed six months if he shall determine that there is not suitable and affordable alternative housing for the occupants in the area and enforcement of the provisions would work a substantial hardship on the occupants.

('71 Code, § 13-92) (Ord. passed 4-15-80)

§ 150.018 BASEMENT DWELLING UNITS.

No person shall let to be occupied a room in any cellar or basement for use as a habitable room unless the following standards are met:

(A) The ceiling shall have a clear inner height of at least seven feet, six inches and shall be at least three feet, six inches above the surface of the street or ground outside of or adjoining the room.

(B) The floors and walls shall be waterproof and damp-proof and the room or rooms shall be well drained and dry.

(C) There shall be one or more windows, the combined total sash area of which shall not be less than eight square feet, or $\frac{1}{10}$ of total floor area, whichever is greater, which windows shall open readily for purposes of ventilation directly to the outside air, except that an approved method of mechanical ventilation may be substituted therefor.

(D) All basement dwelling units shall have two means of egress.

('71 Code, § 13-93) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.019 PROHIBITED USES.

No person shall occupy or let to be occupied any dwelling unit which opens into a paint shop, paint store, vulcanizing shop, public garage, or any place where paint, varnishes, lacquers, thinners, gasoline, or petroleum products are stored. Common walls or ceilings separating such usage from dwelling units shall have no vent or openings whereby fumes or vapors may pass into the dwelling unit.

('71 Code, § 13-94) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.020 VENTILATION.

No person shall occupy as owner-occupant or let to be occupied any dwelling unit which is improperly ventilated. A dwelling unit is improperly ventilated unless:

(A) Every habitable room shall have a window or windows with a total sash area equal to at least $\frac{1}{10}$ of its floor area opening on a street, alley, yard or court open to the sky; such window or windows to be so constructed that at least the top half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted therefor.

(B) Every bathroom and water closet compartment shall have a window with a minimum sash area of three square feet or shall be ventilated by a mechanical means capable of producing a change of air every 12 minutes.

(C) Every basement, cellar, and crawl space shall have some means of ventilation by providing some windows, openings, vents, or mechanical vents.

('71 Code, § 13-95) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.021 ACCESSORY STRUCTURES.

It shall be the duty of the owner of premises let to be occupied in whole or in part as a dwelling unit to maintain all accessory structures including detached garages in good repair and in conformance with the requirements of §§ 150.036 through 150.045 of this chapter.

('71 Code, § 13-96) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.022 STORAGE FUEL TANKS.

It shall be the duty of the owner of premises let to be occupied in whole or in part as a dwelling unit to insure that all fuel tanks be provided with means for venting and that such tanks be installed and maintained so as not to be a hazard to the premises served or surrounding property and conform with the codes and ordinances of the Building Department and Fire Prevention Bureau.

('71 Code, § 13-97) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.023 PUBLIC NUISANCES.

All premises shall be maintained free from public nuisances.

('71 Code, § 13-98) (Ord. passed 4-15-80) Penalty, see § 150.999

MINIMUM STANDARDS

§ 150.035 APPLICABILITY.

The following subchapter shall be considered minimum standards for use and occupancy of dwellings under this subchapter, violation of which may result in the imposition of criminal sanctions on the owners and occupants of dwelling units. Nothing herein is intended to preclude prosecution under any other statute, ordinance, or regulation which imposes a higher standard than those prescribed herein.

('71 Code, § 13-35) (Ord. passed 4-15-80)

Statutory reference:

Authority to adopt minimum standards, see R.S.A. 48-A:11

§ 150.036 EXTERIOR STRUCTURE.

No person shall occupy as owner/occupant, or let to another for occupancy as a dwelling

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unit, any structure or part thereof unless the entire exterior of the structure is in compliance with the standards contained in §§ 150.037 through 150.045 of this subchapter.

('71 Code, § 13-40) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.037 FOUNDATIONS.

All foundations shall be free of holes and breaks and shall safely support the structure at all points. All foundation walls shall be kept in good, safe, sound condition and free of holes, cracks, and breaks. ('71 Code, § 13-41) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.038 EXTERIOR WALLS.

All exterior walls and trim shall be free of holes, breaks, loose or rotting boards or timbers, and other conditions which might admit rain or dampness to interior portions of the walls or to the occupied spaces of the building. The exterior surface siding shall be maintained weatherproof and shall be surface coated to prevent deterioration. All exterior walls and trim shall be kept painted, treated, sided, or otherwise maintained so as to be substantially weatherproof and neat in appearance.

('71 Code, § 13-42) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.039 ROOFS.

The roof shall be structurally sound, weathertight, and have no defects which might admit rainwater. Water from roofs shall be conveyed so as to prevent wet floors, walls, ceilings, or a nuisance to adjacent buildings or overflowing on abutting properties.

('71 Code, § 13-43) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.040 CHIMNEYS, FLUES, CLEANOUT, AND VENTS.

All chimneys and similar appurtenances or attachments shall be maintained structurally sound, in good repair and safe to use.

('71 Code, § 13-44) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.041 PORCHES, STAIRS, AND HANDRAILS.

Every exterior stair, porch, balcony, and all appurtenances attached thereto shall be structurally sound and no part thereof shall show excessive wear, or be broken, cracked, or loose. Carpeting or other covering on stairs and porches shall be maintained in a safe condition. Every flight of stairs which is more than two risers high shall have at least one handrail, and every open portion of a stair, porch, landing, or balcony shall have guardrails. Guardrails shall be firmly fastened and maintained in good condition and new or replacement guardrails shall comply with the provisions of the Building Code.

('71 Code, § 13-45) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.042 DOORS AND DOORWAYS.

Every exterior door frame shall have a door and this door shall be weathertight within its frame. Every exterior door, door hinge, doorknob, and door latch shall be maintained in good usable condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door. Every door required as an exitway shall be capable of being opened from the inside easily without the use of a key. All entrance doors of each dwelling unit shall be equipped with functioning locking devices.

('71 Code, § 13-46) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.043 HATCHWAYS.

Every hatchway, bulkhead, and exitway shall be so constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage water into the structure.

('71 Code, § 13-47) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.044 WINDOWS.

Every window sash and skylight shall be structurally sound and fit within its frame and

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be weathertight so as to prevent passage through it of rain, snow, wind, or other outside elements. Every window sash shall be fully fitted with glass, plexiglass, or polycarbonate panes which are without cracks or holes. Every window other than a fixed window, shall be capable of being held in the open position and locked in the closed position by window hardware.

('71 Code, § 13-48) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.045 SCREENS AND STORM WINDOWS.

Every window with openings to outdoor space required for ventilation in habitable rooms shall be supplied with insect screens and storm windows which shall be maintained in good repair. This section shall not apply to owner-occupied dwelling units.

('71 Code, § 13-49) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.046 INTERIOR STRUCTURE.

No person shall let for occupancy as a dwelling unit any structure or part thereof unless the entire interior of the structure is in compliance with the standards contained in §§ 150.047 through 150.051 of this subchapter.

('71 Code, § 13-50) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.047 STRUCTURAL MEMBERS.

The supporting structural members shall be maintained structurally sound showing no evidence of deterioration or defects which would render them inadequate or unsafe.

('71 Code, § 13-51) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.048 DAMPNESS.

Cellars, basements, and crawl spaces in every structure shall be maintained free from repeated dampness or standing water.

('71 Code, § 13-52) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.049 INDOOR STAIRS AND HANDRAILS.

Interior stairs shall be maintained structurally sound, and no part thereof shall show excessive wear or be broken, warped, cracked or loose. Every flight of stairs which is more than two risers high shall have at least one handrail, and every open portion of a stair, porch, landing, or balcony shall have guardrails as safety requires. Guardrails shall be firmly fastened and maintained in good and safe condition and new or replacement guardrails shall comply with the provisions of the building code.

('71 Code, § 13-53) (Ord. passed 4-15-80) Penalty, see § 150.999

Cross-reference:

Adoption of Building Code, see § 151.01

§ 150.050 INTERIOR SURFACES.

Floors, walls, windows, doors, ceilings, and all other interior surfaces shall be maintained in sound, clean, and sanitary condition free of peeling paint, cracked or loose plaster, decayed wood, or other defective surface conditions.

('71 Code, § 13-54) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.051 FLOOR COVERINGS.

Carpeting, linoleum, or other covering on stairs and floors shall be maintained in a safe condition.

('71 Code, § 13-55) (Ord. passed 4-15-80) Penalty, see § 150.999

MAINTENANCE OF PREMISES

§ 150.060 SANITATION.

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all exterior property areas in a clean and sanitary condition free from any accumulation of rubbish and garbage.

('71 Code, § 13-60) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.061 SIDEWALKS AND OTHER AREAS.

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all sidewalks, walkways, steps, and driveways in a safe condition and free of snow, ice, and other debris, hazards, or obstructions.

('71 Code, § 13-61) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.062 COMMON AREAS; SANITATION.

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all common areas of the structure in a clean and sanitary condition.

('71 Code, § 13-62) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.063 WASTE STORAGE FACILITIES.

(A) The owner of any structure, or part thereof, let for occupancy as a dwelling unit shall supply each dwelling unit with rigid plastic or metal containers, with covers, of sufficient volume to provide storage for all rubbish and garbage generated within the dwelling unit. At least one such container shall be provided for each dwelling unit.

(B) When they are not placed at the right- of-way for collection, all waste storage containers shall be stored on the property to which they belong in a manner that will prevent their being blown or carried about by the elements and minimize the likelihood that they will be vandalized. When there is a repeated violation of this section, the Department may establish specific requirements reasonably calculated to correct the condition. Such requirements may

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include, but are not limited to, proper container storage arrangements and numbering or other identification of containers.

(C) The owner(s) of any multi-family dwelling shall supply a dumpster or toters sufficient to provide storage for all rubbish and garbage generated within the multi-family dwelling. Dumpsters will not be emptied or serviced by the Manchester Highway Department or public works.

('71 Code, § 13-63) (Ord. passed 4-15-80; Am. Ord. passed 6-21-94; Am. Ord. passed 11-5-03) Penalty, see § 150.999

§ 150.064 WASTE STORAGE.

It shall be the responsibility of the occupants of any dwelling unit to properly store all rubbish and garbage in the containers required in this subchapter. Rubbish or garbage shall not be allowed to accumulate in public halls, stairways, or other means of egress. All halls, passages, and stairways shall be kept free from encumbrances or obstructions of any kind. ('71 Code, § 13-64) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.065 SANITATION; DWELLING UNITS.

It shall be the duty of the occupant of any dwelling or rooming unit to maintain the unit and parts appurtenant thereto over which he has control in a clean, safe, and sanitary condition.

('71 Code, § 13-65) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.066 PLUMBING FIXTURES.

The occupant shall be responsible for the cleanliness and sanitation of all plumbing fixtures used by his household. No occupant shall deposit material in any fixture which will result in stoppage or drainage of the fixture. Stoppages deemed to be due to improper use or neglect shall be corrected by the occupant, but nothing in this section shall be construed to exempt the owner or his agent from making plumbing repairs as required in section § 150.084 of this chapter.

('71 Code, § 13-66) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.067 RODENTS AND INSECTS.

All structures shall be kept free from the infestation of insects, rodents, and other pests and where such infestation exists the insects, rodents, or other pests shall be promptly exterminated by an accepted process by a licensed exterminator. After extermination, suitable precautions must be taken to prevent reinfestation.

('71 Code, § 13-67) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.068 RESPONSIBILITY FOR INFESTATION CONTROL.

When infestation by insects, rodents, or other pests is limited to a single dwelling unit, responsibility for extermination lies within the occupant thereof. When such infestation occurs in more than one dwelling unit of a structure, or in the common areas of a structure, responsibility for extermination lies with the owner thereof.

('71 Code, § 13-68) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.069 LEAD BASED PAINT.

All interior and exterior surfaces of dwellings, dwelling units, and rooming units shall be free of loose or flaking paint. All newly applied paint must meet the U.S. Consumer Product Safety Commission Standards as being safe in accordance with the provisions of the Board of Health Department.

('71 Code, § 13-69) (Ord. passed 4-15-80) Penalty, see § 150.999

REQUIRED FACILITIES

§ 150.080 BASIC FACILITIES REQUIRED.

No person shall occupy as owner/occupant or let to another for occupancy any dwelling, dwelling unit, or rooming unit which does not comply with the requirements contained in this

subchapter.

('71 Code, § 13-70) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.081 SANITARY FACILITIES.

The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe, and working condition:

(A) *Water closet and lavatory.* Every dwelling unit shall contain within its walls a room separate from habitable rooms, which affords privacy and a water closet supplied with cold running water. Where possible the lavatory must be located in the same room as the water closet, however, if this is not practicable, it shall be located in close proximity to a door leading directly into the room in which the water closet is located. The lavatory shall be supplied with hot and cold running water.

(B) *Bathtub or shower.* Every dwelling unit shall contain a room which affords privacy to a person in the room and which is equipped with a bathtub or shower supplied with hot and cold running water.

(C) *Kitchen sink.* Every dwelling unit shall contain a kitchen sink apart from the lavatory which shall be supplied with hot and cold running water.

(D) *Sanitary facilities, rooming houses.* At least one water closet, lavatory, and bathtub or shower properly connected to an approved water and sewer system and in good working condition, shall be provided for each four rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the rooming house in a room or rooms which are accessible from a common hall, passageway, or a room used in common (lounge) without going outside the rooming house or passing through another dwelling unit or rooming unit therein and shall be not more than one story removed from any persons sharing such facilities. A ceiling height of six and two-thirds feet in all parts where a person has to stand. Every lavatory, bathtub, or shower shall be supplied with hot and cold running water at all times. Such facilities shall not be located in a cellar.

('71 Code, § 13-71) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.082 WATER AND SEWER SYSTEM.

Every kitchen sink, lavatory basin, bathtub or shower, and water closet required under the

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provisions hereof shall be properly connected to either a public water and sewer system or to an approved private water or sewer system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

('71 Code, § 13-72) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.083 WATER HEATING FACILITIES.

Every dwelling unit shall be supplied with water heating facilities which are installed, maintained, and connected with hot water lines to the fixtures required in this subchapter to be supplied with hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn from every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility at a temperature of not less than 130° F.

('71 Code, § 13-73) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.084 PLUMBING FIXTURES; INSTALLATION AND CONNECTION.

All plumbing fixtures, vents, drains, and water supply lines shall be properly installed, connected, and maintained in working order, shall be kept free from obstructions, leaks, and defects and shall be capable of performing the functions for which they were designed.

('71 Code, § 13-74) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.085 HEATING FACILITIES.

Every dwelling and dwelling unit shall have heat equipment and appurtenances which are properly installed, and are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of at least 70° F. at 48 inches above floor level under ordinary winter conditions. When the landlord has agreed to provide heat, every room shall be maintained at a minimum of 68° F. in the daytime and 62° F. at night, or whatever the Federal Energy Commission requires.

('71 Code, § 13-75) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.086 ELECTRICAL SERVICE AND OUTLETS.

Every dwelling unit shall be supplied with electric service, outlets and fixtures installed and maintained in accordance with the provisions of the electrical code for the city. The following electric outlets are required:

(A) Every habitable room of a dwelling or dwelling unit shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture.

(B) In kitchens, three separate and remote wall-type outlets and one ceiling or wall-type electric light fixture shall be provided.

(C) Every water closet compartment, bathroom, laundry room, or furnace room shall contain at least one electric light fixture.

(D) In addition to the electric light fixture in every bathroom and laundry room there shall be provided at least one electric outlet.

(E) Extension cords. Temporary wiring shall not be used to fulfill the electrical service and facilities required by this section. When extension cords are used, they shall run directly from portable electrical fixtures to convenient outlets. Extension cords shall not lie under rugs or other floor coverings, nor extend through doorways, transoms, or similar openings.

(F) No dwelling unit shall be crosswired unless the electric service for that unit is paid for by the building owner. The following procedures shall apply when a tenant reasonably suspects that his or her dwelling unit is crosswired:

(1) The tenant, at his or her own expense, shall hire a licensed electrician to inspect the premises for such crosswiring. The building owner shall be notified of this inspection at least five working days in advance and shall not unreasonably refuse to restrict access to any portions of the building which must be inspected for the electrician to make an accurate determination of crosswiring.

(2) If the electrician determines that cross-wiring exists, a written report clearly describing the crosswiring shall be provided to the tenant. The tenant may file a copy of the report with the Department.

(3) If a report of crosswiring has been filed with the Department within the preceding year, a subsequent tenant of the same dwelling unit may request that the Department notify the building owner of a violation of this section provided that the crosswiring described in

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the report was not corrected by rewiring and the tenant demonstrates that he or she is paying for the dwelling unit electrical service.

(4) Upon receipt of an electrician's report of crosswiring, the Department shall give the building owner notice of a violation of this section.

(5) The building owner shall correct the violation by providing evidence that the crosswiring has been eliminated by rewiring or by demonstrating that he or she has assumed responsibility for payment of the entire cost of the affected unit's electric service.

('71 Code, § 13-76) (Ord. passed 4-15-80; Am. Ord. passed 2-15-94) Penalty, see § 150.999

§ 150.087 COMMON HALLWAYS AND STAIRWAYS.

Every common hallway and stairway shall be supplied with a lighting system which produces illumination sufficient to protect the safety of all persons using those facilities. Such lighting systems shall either be kept in continuous operation or shall be controlled by switches which are conveniently located for all persons who might use the stairway or hallway. ('71 Code, § 13-77) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.088 FACILITIES, EQUIPMENT, AND APPLIANCES.

All facilities, equipment, and building space and parts in every building and structure shall be constructed and maintained so as to properly and safely perform their intended functions. It shall be the duty of the owner to maintain in good and operable condition such kitchen appliances as are furnished by the owner.

('71 Code, § 13-78) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.089 EXITWAYS.

Every dwelling unit or rooming unit shall have access to two exitways or stairways leading to the exterior at ground level. Exitways from any one dwelling unit shall not pass through any other such units or bathrooms or toilet rooms. Exitways shall be as remote from each other as is practicable. Access to the two required exits or stairs may be accomplished through a common corridor or hallway, providing such corridor or hallway has direct access to

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both exits. The use of ladders, ropes, or such devices as substitutes for stairs are prohibited.

('71 Code, § 13-79) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.090 SMOKE DETECTION DEVICES.

(A) Each dwelling unit contained in a multi-unit dwelling shall be equipped with smoke detection devices. In addition, these devices shall also be located on every floor level of each common stairway and each common hallway, including basements.

(B) Each single-family dwelling shall be equipped with smoke detection device outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the single-family dwelling including basements.

(C) Each rental unit in a building or single-family dwelling which provides permanent or transient living facilities for one or more persons, which is occupied by tenants on a rental basis shall be equipped with at least one smoke detection device.

(D) All buildings four stories or more in height, or with 12 or more dwelling units shall comply with the provisions of the Life Safety Code sections on detection, alarm, and communication. These alarm systems shall be installed and maintained in accordance with the Fire Department rules and regulations.

(E) All smoke detection devices, installed in all multi-unit dwellings after July 1, 1984 shall be powered by the house electrical current.

('71 Code, § 13-80) (Ord. passed 4-15-80; Am. Ord. passed 11-7-85) Penalty, see § 150.999

CERTIFICATES OF COMPLIANCE

§ 150.100 PERMIT REQUIRED.

It shall be unlawful for anyone to operate a rooming house or to rent, offer for rent, or allow any person to occupy any dwelling, dwelling unit, or condominium unit without a certificate of compliance, interim rental permit, or transfer permit unless the building is exempt pursuant to this subchapter.

('71 Code, § 13-200) (Ord. passed 10-15-91) Penalty, see § 150.999

§ 150.101 APPLICATION OF SUBCHAPTER; EXCEPTION.

(A) Except as provided herein this subchapter shall apply to all buildings containing rental property. Structures having no more than four dwelling units shall not be required to obtain a certificate of compliance provided that:

(1) One of the building dwelling units constitutes the principal residence of the owner; and

(2) It has been this owner's principal residence continuously since September 2, 1986.

(B) Owners of structures not required to have a certificate of compliance shall file the initial application without fee. This exemption shall terminate automatically upon the sale or other transfer of the property.

('71 Code, § 13-201) (Ord. passed 10-15-91)

§ 150.102 APPLICATION FOR CERTIFICATE.

The owners of each building containing rental property shall file a completed application for a certificate of compliance, including the fee required by this subchapter, with the Department. A separate application shall be filed for each building containing dwelling or rooming units. Each condominium unit shall require a separate application. Application forms shall be prepared by the Department and shall contain such information as is required by the Department. Application forms shall be available at Department offices and at the office of the City Clerk.

('71 Code, § 13-202) (Ord. passed 10-15-91)

§ 150.103 INTERIM RENTAL PERMIT.

The Department shall issue an interim rental permit for each building containing dwelling or rooming units and each condominium unit for which an application has been received unless that building is exempt, as provided herein.

('71 Code, § 13-203) (Ord. passed 10-15-91)

§ 150.104 INSPECTION OF PREMISES.

Following receipt of an application for a certificate of compliance, an inspection of that property shall be conducted to determine compliance with the provisions of this chapter. After the inspection, the Department shall:

(A) Issue a certificate of compliance if the premises comply with all provisions of this chapter; or

(B) Issue a violation notice if the premises do not comply with all provisions of this chapter. The notice shall list all violations, order their correction within a specified time period, establish reinspection requirements and include such other items and conditions as the Department deems appropriate.

('71 Code, § 13-204) (Ord. passed 10-15-91)

§ 150.105 REINSPECTION WHERE VIOLATIONS FOUND.

On or before the date specified in a violation notice, the owner shall cause the correction of all violations. If, on reinspection, the premises are found to comply with all provisions of this chapter, a certificate of compliance shall be issued. If, on reinspection, the premises still do not comply with all provisions of this chapter, the Department may initiate such enforcement action, including but not limited to revocation of the interim rental permit, as he deems appropriate.

('71 Code, § 13-205) (Ord. passed 10-15-91)

§ 150.106 CERTIFICATES OF COMPLIANCE; TERM AND RENEWAL.

Certificates of compliance shall be issued for a term of three years. The expiration date shall be specified in the certificate and the owner shall apply for a renewal of the certificate of compliance at least 30 days prior to the expiration date.

('71 Code, § 13-206) (Ord. passed 10-15-91)

§ 150.107 EXTENSION OF TERM.

If the Board finds that circumstances exist, which make it impossible for the Department to conduct substantially all of the required compliance inspections during an established term, it may extend the term of existing certificates of compliance. Such extensions shall be for a period not to exceed three years and shall be applicable to a particular building only if the owner thereof has applied for and received a certificate showing the extended expiration date. The Board may establish such additional terms and conditions as are appropriate and necessary. The Board shall notify the Board of Mayor and Aldermen of any extensions including the reasons therefore.

('71 Code, § 13-207) (Ord. passed 10-15-91)

§ 150.108 NEWLY CONSTRUCTED RENTAL PROPERTY.

In the case of newly constructed rental property for which a certificate of occupancy has been issued by the Building Department, the following procedures shall apply. The Building Department shall provide full information to the Housing Code Department which shall notify the owner of the requirements of this subchapter. An application for a certificate of compliance shall be filed no later than 30 days from such notification. No inspection shall be required and no fee shall be charged for the issuance of the certificate of compliance.

('71 Code, § 13-208) (Ord. passed 10-15-91)

§ 150.109 TRANSFER OF OWNERSHIP.

(A) No rental property being rented, offered for rent, or otherwise occupied shall be bought or sold without the property having a certificate of compliance or transfer permit. This section shall not apply to real estate mortgages but shall apply to foreclosure sales.

(B) No rental property being rented, offered for rent, or otherwise occupied under a certificate of compliance shall be bought, sold, or otherwise transferred without an application for assignment of certificate of compliance, including the fee, required by this subchapter, having first been filed with the Department.

(C) Application forms shall be available at the Department offices and at the office of the City Clerk. A separate application shall be required for each dwelling, dwelling unit,

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condominium unit, or rooming house. Such certificates expire on the date that the previous certificate would have expired.

('71 Code, § 13-209) (Ord. passed 10-15-91)

§ 150.110 TRANSFER PERMITS.

(A) The Department may, in his discretion, issue a transfer permit, in lieu of a certificate of compliance pursuant to § 150.109(A) of this subchapter. Transfer permits shall contain such reasonable terms and conditions, in accord with guidelines established by the Board, as the Department deems proper and may be issued in circumstances such as the following:

(1) In the case of a backlog of applications for certificate of compliance such as to result in unreasonable delay in transferring ownership;

(2) In the case of mortgage foreclosures, deeds in lieu of mortgage foreclosures, bankruptcy, or other distress sales;

(3) In other cases where the Department deems that good cause exists for the issuance of a transfer permit and such does not adversely affect the objectives of this chapter.

(B) Applications for transfer permits shall be on forms prepared by the Department, shall contain such information as is required by the Department and shall ordinarily be signed by all sellers and buyers.

('71 Code, § 13-210) (Ord. passed 10-15-91)

§ 150.111 RENTAL ASSISTANCE.

No owner of rental property with respect to which rental assistance is provided by any city, county, or state agency shall rent the same without applying for a certificate of compliance. ('71 Code, § 13-211) (Ord. passed 10-15-91) Penalty, see § 150.999

§ 150.112 PUBLIC RECORDS.

All applications, permits, certificates, or other documents kept or maintained by the Department pursuant to this subchapter are public records and are available for inspection during

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regular business hours.

('71 Code, § 13-212) (Ord. passed 10-15-91)

§ 150.113 SPECIAL INSPECTIONS.

On request of owners, prospective purchasers, real estate brokers, financial institutions, housing agencies, and others with a legitimate interest therein, the Department may inspect or reinspect rental property other than as required in this subchapter. Certificates of compliance shall be issued on such terms as the Department determines to be proper.

('71 Code, § 13-213) (Ord. passed 10-15-91)

§ 150.114 FEES; EXEMPTIONS.

(A) The following fees shall be charged by the Department.

(1) *Application* - \$25 per dwelling unit or rooming unit as part of each application for a certificate of compliance.

(2) *Inspection.*

(a) Dwelling unit: \$35 per unit for each inspection to determine compliance.

(b) Rooming unit: \$15 per room for each inspection to determine compliance.

(3) *Reinspection.* For reinspection of a building:

(a) First reinspection - no charge.

(b) Second and subsequent reinspections - \$25.

(c) In addition, after a second reinspection, the fee shall increase by \$10 for each subsequent reinspection.

(4) *Unaccompanied inspection or reinspection* - \$50 for each inspection or reinspection at which a building owner or his representative is not present unless such arrangement has been agreed to in advance.

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- (5) *Transfer of ownership* - \$35 per certificate to assign a certificate of compliance to a new owner.
- (6) *Replacement of certificate and permit* - \$25 per document for replacing an existing certificate of compliance, interim rental permit, or transfer permit.
- (7) *Transfer permit*. Each application for a transfer permit:
- (a) One to four dwelling or rooming units - \$125.
 - (b) Five to eight dwelling or rooming units - \$250.
 - (c) In addition, each unit in excess of eight units shall be charged at the rate of \$25 per unit.
- (8) *Special inspection*. A minimum of \$100 for each inspection and \$25 per dwelling unit or rooming unit for each additional unit after the fourth such unit.
- (9) *Extended terms* - \$50 per certificate to extend the expiration date of a certificate. ('71 Code, § 13-214)
- (B) *Exemptions*. No fee shall be charged under this subchapter for any residential rental property that is owned by the state, the county, the city, the City Housing and Redevelopment Authority, or any agency or facility licensed by the state. Further, no fee shall be charged for student dormitories, homes for the elderly, fraternal, charitable, or other nonprofit organizations which are inspected pursuant to the requirements of the U.S. Department of Housing and Urban Development or state agencies. ('71 Code, § 13-215)
- (Ord. passed 10-15-91; Am. Ord. passed 5-5-92; Am. Ord. passed 6-27-94; Am. Ord. passed 10-7-97; Am. Ord. passed 10-17-06)

HOUSING COUNCIL

§ 150.125 ESTABLISHED; PURPOSES.

(A) A Manchester Housing Council is hereby established to carry out duties and responsibilities recommended in the “Manchester Housing Analysis Technical Report” and to consider and report on such matters as are referred to it by the Board of Mayor and Aldermen.

(B) The basic purposes of the Council are to:

- (1) Promote a high degree of cooperation between the city housing industry

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and housing consumers to achieve the city's housing goals.

- (2) Compile and review data on city and regional housing performance.
- (3) Monitor progress toward the achievement of city housing goals.
- (4) Make recommendations to the Board of Mayor and Aldermen and the city Planning Board on city housing policies.
- (5) Prepare an annual housing agenda recommending public and private actions to achieve housing goals.
- (6) Promote the city as quality living environment for the broadest possible range of economic groups.
- (7) Lobby at the state and regional levels for programs and policies that will help the city achieve its housing goals.
- (8) Undertake such promotional and fund raising activities as necessary to develop new sources of funds for housing programs and low income housing development.
- (9) Comment on major proposed developments that either add new units or remove existing units from the city's housing inventory.
- (10) Take an active and aggressive approach to implementing a regional solution to housing and emergency shelter needs.

('71 Code, § 13-231) (Ord. passed 4-21-87)

§ 150.126 PLAN, AGENDA, AND REPORT.

The Council shall prepare a plan for its operation and an agenda not inconsistent with the recommendations in the Manchester Housing Analysis. Such plan and agenda shall be communicated to the Board of Mayor and Aldermen within three months of passage of this subchapter or as soon thereafter as is practicable. Annually, in the month of October, the Council shall make an official report to the Board of Mayor and Aldermen.

('71 Code, § 13-232) (Ord. passed 4-21-87)

§ 150.127 COOPERATION AND STAFF.

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The work of this Council is of utmost importance to the citizens of the city and, therefore, all city departments and agencies are directed to assist and cooperate with the Council in the furtherance of its duties. Staff support for the Council shall be furnished as needed by the Planning Department and the Manchester Housing Authority.

('71 Code, § 13-233) (Ord. passed 4-21-87)

§ 150.128 MEMBERSHIP.

The Manchester Housing Council shall consist of 27 members; 21 members shall be voting members and six members shall be nonvoting members, as follows:

(A) *Voting members.* The following 21 members of the Manchester Housing Council shall be voting members and shall be designated as follows:

(1) *Chairman.* The Chairman shall be appointed by the Board of Mayor and Aldermen for a term of office as provided for in § 150.129 of this chapter.

(2) *Member from each city ward.* There shall be one member from each of the several wards to be appointed by the Alderman from the ward. This appointment shall be subject to confirmation by the Board of Mayor and Aldermen.

(3) *Greater Manchester Board of Realtors.* A representative of the Greater Manchester Board of Realtors designated by the Board.

(4) *Greater Manchester Homebuilders' Association.* A member of the Greater Manchester Homebuilders' Association designated by the Association.

(5) *Southern N.H. Regional Planning Commission.* A representative of the Southern N.H. Regional Planning Commission, ex officio.

(6) *New England Non-Profit Housing Development Corporation.* A representative of the New England Non-Profit Housing Development Corporation, ex officio.

(7) *New Hampshire Housing Finance Association.* A representative of the New Hampshire Housing Finance Association, ex officio.

(8) *United Way.* A representative of the United Way, ex officio.

(9) *Southern New Hampshire Services.* A representative of the Southern New Hampshire Services, ex officio.

(10) *Architect.* An architect experienced in working with city codes and

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regulations appointed by the Board of Mayor and Aldermen.

(B) *Nonvoting members.* The following officials shall be nonvoting ex officio members of the Manchester Housing Council: The Planning Director, the Building Commissioner, the Welfare Commissioner, the City Coordinator, and the executive director of the Manchester Housing Authority.

('71 Code, § 13-234) (Ord. passed 4-21-87)

§ 150.129 TERMS OF OFFICE.

The Chairman and the members from the various wards shall hold office for an initial term expiring January 31, 1990, and thereafter for a term of three years. Ex officio members shall serve during their term of office. The architect shall hold office for an initial term expiring January 31, 1989, and thereafter for a term of two years. The member from the Greater Manchester Board of Realtors, Greater Manchester Homebuilders Association, Southern New Hampshire Regional Planning Commission, New England Non-Profit Housing Development Corporation, New Hampshire Housing Finance Association, United Way, Southern New Hampshire Services, shall hold office for an initial term expiring January 31, 1991, and thereafter for a term of four years. Members shall serve until their successors are appointed and qualified and vacancies shall be filled for the unexpired term.

('71 Code, § 13-235) (Ord. passed 4-21-87)

ADMINISTRATION AND ENFORCEMENT

§ 150.140 INSPECTION.

The Building Commissioner shall direct his attention to dwellings where from citizen complaints or exterior inspection he has reasonable cause to believe there are housing code violations present. In addition, there shall be systematic inspection of all other dwellings.

('71 Code, § 13-100) (Ord. passed 4-15-80)

§ 150.141 RESPONSIBILITY OF PERSONS.

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No person shall occupy as owner/occupant or let for occupancy any structure or portion thereof unless the entire premises are in compliance with the standards established in this chapter except as certain sections of this chapter may otherwise delegate responsibility.

('71 Code, § 13-101) (Ord. passed 4-15-80) Penalty, see § 150.999

§ 150.142 NOTICE OF VIOLATION.

Whenever the Department determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation of any provision of this chapter, he may give or cause to be given notice of such violation to the person or persons responsible therefor.

('71 Code, § 13-102) (Ord. passed 4-15-80)

§ 150.143 HOUSING CODE DEPARTMENT; POWERS.

(A) The Housing Code Department and its delegated officers shall exercise the powers that may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation.
- (2) To administer affirmations, examine witnesses, and receive evidence.
- (3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.
- (4) To appoint and fix the duties of such officers, agents, and employees as are deemed necessary to carry out the purposes of this chapter.
- (5) To delegate any of its functions under this chapter to the officers that it may designate. ('71 Code, § 13-15) (Ord. passed 8-2-60; Am. Ord. passed 3-19-68)

(B) The following positions within the Housing Code Department are hereby abolished:

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- (1) Account Clerk
- (2) Clerk Typist III
- (3) Housing Code Administrator
- (4) Housing Code Director
- (5) Housing Inspectors (5 positions)

(Ord. passed 7-1-94)

Statutory reference:

Authority of city to confer power upon housing code department, see R.S.A. 48-A:8

§ 150.144 GROUNDS FOR FINDING UNFITNESS.

(A) The Housing Code Department may determine that a dwelling is unfit for human habitation if it finds that conditions exist in the dwelling which are unusually, abnormally, or unreasonably dangerous or injurious to the health or safety of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the municipality.

(B) Such conditions may include the following:

- (1) Defects which increase beyond normal the hazards of fire, accident, or other calamities.
- (2) Lack of reasonable adequate ventilation, light, or sanitary facilities.
- (3) Dilapidation, disrepair, dangerous structural defects.
- (4) Uncleanliness.
- (5) Overcrowding.
- (6) Inadequate ingress and egress.
- (7) Inadequate drainage.
- (8) Any violation of other health, fire, or safety regulations.

(R.S.A. 48-A:7) ('71 Code, § 13-16) (Ord. passed 8-2-60)

§ 150.145 IMMUNITY OF PERSONNEL.

No officer or employee charged with the enforcement of this chapter and acting for the city in the discharge of his duties shall render himself personally liable for any damage that may accrue to any person or property as a result of his acts in the discharge of his duties. Any suit brought against any officer or employee because of any act performed by him under the provisions of this chapter shall be defended by the City Solicitor until the final determination of the proceedings therein.

('71 Code, § 13-17) (Ord. passed 8-2-60)

§ 150.146 COMPLAINT; NOTICE; HEARING.

Whenever a petition is filed with the Housing Code Department by at least ten residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Code Department by inspection that any dwelling is unfit for human habitation, it shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect. If the person to be served resides outside the state, service may be made upon him by registered mail; and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication in a newspaper having general circulation in the municipality, such publication to be at least ten days before the date set for the hearing. Such complaint shall contain a notice that a hearing will be held before the Housing Code Department at a place therein fixed not less than ten days or more than 30 days after the serving of said complaint; that the owner, mortgagee, and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Code Department.

(R.S.A. 48-A:3(II))('71 Code, § 13-18) (Ord. passed 8-2-60)

§ 150.147 DEPARTMENT ORDER AFTER HEARING.

If, after such notice, and hearing, the Housing Code Department determines according to the standards prescribed in this chapter that the dwelling under consideration is unfit for human

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habitation, it shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order, which, if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to remove or demolish such dwelling.

(R.S.A. 48-A:3(III)) ('71 Code, § 13-19) (Ord. passed 8-2-60)

§ 150.148 APPEALS FROM HOUSING DEPARTMENT ORDERS.

(A) If an owner is aggrieved by an order of the Housing Code Department made pursuant to § 150.147 hereof, he may appeal to the Board of Mayor and Aldermen.

(B) The Board of Mayor and Aldermen shall hold a public hearing upon the appeal, due notice of the hearing having first been given to the Housing Code Department and to the owner.

(C) The Board of Mayor and Aldermen may affirm or revoke the order of the Housing Code Department or they may modify it in accordance with their findings. If they shall affirm or modify the order, the Housing Code Department shall proceed to enforce the order as affirmed or so modified, in the manner prescribed in § 150.149. If the Board of Mayor and Aldermen shall revoke said order, the proceedings shall be terminated.

(R.S.A. 48-A:3(IV)) ('71 Code, § 13-20) (Ord. passed 8-2-60)

§ 150.149 COURT HEARING.

(A) If the owner fails to comply with an order, made pursuant to the provisions of § 150.147 hereof, to repair, alter, improve, or to vacate and close the dwelling, or to remove or demolish the dwelling, the Housing Code Department may file a petition in the Superior Court in which it shall set forth the charges issued pursuant to § 150.146, as well as any other allegations bearing upon the unfitness of the dwelling for human habitation.

(B) The court shall thereupon direct notice to be given all parties having an interest in said dwelling, including mortgagees and persons in possession thereof. Such notice shall be

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given, where practicable, by personal service, except that if the person to be served resides outside the state, service may be made upon him by registered mail: and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication of the petition in a newspaper having general circulation in the municipality, such publication to be at least ten days before the date set for the hearing.

(C) The court shall set a date for hearing such charges and additional allegations.

(D) Upon hearing, the matter shall be treated as de novo, and the court shall hear such pertinent evidence concerning the fitness of the dwelling for human habitation as may be relevant.

(R.S.A. 48-A:4) ('71 Code, § 13-21) (Ord. passed 8-2-60)

§ 150.150 COURT ORDER.

(A) The court shall as soon as practicable issue its order upon the petition; and if the court finds the dwelling complained against is unfit for human habitation due to any of the causes or conditions enumerated in § 150.144(B), such order shall direct the Housing Code Department to repair, alter, or improve such dwelling to render it fit for human habitation if such repair, alteration, or improvement can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost; or if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, to remove or demolish such dwelling.

(B) If the court shall find in favor of the owner, it shall award to him his reasonable costs and expenses, including counsel fees, all as determined by the court, incurred by him in his defense of the action in the Superior Court.

(R.S.A. 48-A:5) ('71 Code, § 13-22) (Ord. passed 8-2-60)

§ 150.151 LIEN.

(A) Whenever the Housing Code Department shall incur cost for the repair, alteration, improvement, vacating or closing, or for the removal or demolition of a dwelling, pursuant to an order of the Superior Court, the amount of such costs shall be a lien against the real property which such cost was incurred and such lien, including as part thereof upon allowance of his costs all necessary attorney's fees, may be foreclosed upon order of the Superior Court made pursuant to a petition for that purpose filed in said court. Such lien shall be subordinate to mortgages of

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record made before the institution of proceedings under this section. Notice of the lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded by him.

(B) If the dwelling is demolished by the Housing Code Department, it shall sell the materials of such dwelling and pay the proceeds of such sale over to the Superior Court, for distribution to such persons the court shall find entitled thereto.

('71 Code, § 13-23) (Ord. passed 8-2-60)

Statutory reference:

For similar statutory provisions, see R.S.A. 38-A:6

§ 150.999 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to the penalty provided under § 38.06(B) of the Code of Ordinances. Each day a violation occurs or continues shall constitute a separate offense.

('71 Code, § 17¾-1) (Ord. passed 4-21-98)

CHAPTER 151: BUILDING REGULATIONS

Section

General Provisions

- 151.01 Adoption of International Building Code
- 151.02 Abandoning excavations
- 151.03 Air rights
- 151.04 Issuance of building permits; state provisions adopted

Trailer Parks and Tourist Camps

- 151.40 Definitions
- 151.41 Parking trailers outside parks
- 151.42 Enforcement

151.99 Penalty

GENERAL PROVISIONS

§ 151.01 ADOPTION OF INTERNATIONAL BUILDING CODE.

Certain documents, three copies of each which are on file in the office of the City Clerk of the City of Manchester being marked and designated as the *International Building Code*, 2000 Edition, including Appendix Chapters B, G, H and J, as published by the International Code Council, Inc., be and is hereby adopted as the Building Code of the City of Manchester in the State of New Hampshire, for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes prescribed in § 2 of the ordinance adopted September 4, 2001.

('71 Code, § 6-12) (Ord. passed 2-7-89; Am. Ord. passed 9-4-01)

§ 151.02 ABANDONING EXCAVATIONS.

(A) *Prohibited.* No person shall excavate a lot or parcel of land for the purpose of erecting a foundation to erect a building thereon and then abandon the project.

(B) *Time for filling.* If a cellar hole has been excavated and the project abandoned, the party responsible for the excavation shall cause the excavation to be refilled within a period of 60 days after the project has been abandoned.

('71 Code, § 6-1) Penalty, see § 151.99

§ 151.03 AIR RIGHTS.

The Board of Mayor and Aldermen is hereby authorized to grant air rights pursuant to and consistent with the provisions of R.S.A. 48-B.

('71 Code, § 6-2) (Ord. passed 3-3-81)

§ 151.04 ISSUANCE OF BUILDING PERMITS; STATE PROVISIONS ADOPTED.

The provisions of R.S.A. 676.12 with respect to the issuance of building permits are hereby adopted.

('71 Code, § 6-3) (Ord. passed 9-6-83; Am. Ord. passed 5-6-97; Am. Ord. passed 4-21-98)

TRAILER PARKS AND TOURIST CAMPS

§ 151.40 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CABIN PLOT. A section of ground not less than 30 feet by 40 feet in area, upon which only one camp cottage, or cabin, is located.

TOURIST CAMP. Any camp, park, court, site, lot, parcel, or tract of land upon which any camp cottage or cabin is maintained for the accommodation of transients, whether or not a charge is made.

TRAILER. Any vehicle or structure designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation, or trade, or used as a selling or advertising device, and so designed that it may be mounted on wheels and used as a conveyance on streets, whether propelled or drawn by its own or other motive power. The term **TRAILER** shall not include a device used exclusively upon stationary rails or tracks.

TRAILER PARK. Any park, court, camp, site, lot, parcel, or tract of land maintained for the purpose of providing accommodations for any trailer or upon which any trailer is parked, and shall include all buildings used as part of the equipment thereof, whether or not a charge is made for the use of the trailer park and its facilities. The term **TRAILER PARK** shall not include trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

UNIT. A section of ground in a trailer park of not less than 1,000 square feet of unoccupied space in an area designated as the location for only one automobile and one trailer. ('71 Code, § 25-1)

§ 151.41 PARKING TRAILERS OUTSIDE PARKS.

(A) It shall be unlawful, within the limits of the city, for any person to park any trailer on any street or other public place, or on any tract of land owned by any person, occupied or unoccupied, except as provided in this section.

(B) Emergency or temporary stopping or parking is permitted on any street in the city for not longer than 24 hours, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street.

(C) No person in the city shall park or occupy any trailer on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling either of which is situated outside an approved trailer park; except, the parking of only one trailer in an accessory private garage building, or in a rear yard in any district, is permitted providing the trailer is the property of a bona fide visitor with the owner or tenant of the property and shall not have its wheels removed or remain on the premises for a period exceeding 30 days.

('71 Code, § 25-2) (Am. Ord. passed 2-7-89; Am. Ord. passed 11-7-01) Penalty, see § 10.99

Cross-reference:

Traffic code, see Title VII

§ 151.42 ENFORCEMENT.

It shall be the duty of the Building Commissioner and the Police Department to enforce the provisions of this chapter.

('71 Code, § 25-3) (Ord. passed 2-7-89)

§ 151.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding the maximum allowed by R.S.A. 47:17 or other law. Each day a violation occurs or continues shall constitute a separate offense.

('71 Code, § 17³/₄-1)

CHAPTER 152: PLANNING AND DEVELOPMENT

Section

Planning and Community Development Department

152.00 Planning and Community Development Department established

Planning Board

- 152.01 Board established; designated
- 152.02 Composition of Board
- 152.03 Board compensation; term; holding other offices
- 152.04 Removal of Board members
- 152.05 Filling of Board vacancies
- 152.06 Board Chairman; meetings; rules of procedure
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Industrial Council

- 152.30 Establishment
- 152.31 Composition; appointment; terms of office
- 152.32 Industrial agent
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Publicity and Development

- 152.45 Bureau established
- 152.46 Function of Bureau
- 152.47 Board established; composition
- 152.48 Authority of Board

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

§ 152.00 PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Planning and Community Development Department.

(B) The department head shall be the Director of Planning and Community Development who shall be appointed as provided by Charter § 3.03. Upon the effective date of this ordinance, the Planning Director shall assume the title and position of Director of Planning and Community Development.

(C) The Planning and Community Development Department shall be responsible for coordinating the planning and development of the city and ensuring that adequate public facilities are planned and funded. The department shall include the Planning Department existing on the date of this ordinance.

(D) The Planning and Community Development Department shall provide staff support to the following boards and committees subject to staff availability and budget:

- (1) Planning Board.
- (2) Community Improvement Program Committee of the Board of Mayor and Aldermen.
- (3) Zoning Board of Adjustment.
- (4) Heritage Commission.
- (5) Millyard Design Review Committee.
- (6) School Capital Improvement Committee.
- (7) Conservation Commission.

(E) The Planning and Community Development Department shall also have the following duties, powers and functions:

- (1) Prepare land use plans and community development strategies and assist

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the Planning Board in preparation of the Master Plan;

- (2) Provide for the proper planning and design of community development and facilities;
- (3) (Reserved)
- (4) Administer the processing of subdivisions, site plans, special use permits and planned developments under the direction of the Planning Board;
- (5) Administer the Urban Ponds Restoration Program. The Urban Ponds Restoration Administrator is hereby transferred into the Planning and Community Development Department;
- (6) Assist the Mayor in preparation of the proposed Community Improvement Program;
- (7) Assist the Board of Mayor and Aldermen in the review and adoption of the Community Improvement Program;
- (8) Implement and administer the approved Community Improvement Program;
- (9) Provide coordination between departments for capital and special projects which affect more than one department;
- (10) Perform such other duties as prescribed by federal, state and local law.

(Ord. passed 11-4-98; Am. Ord. passed 8-5-03)

PLANNING BOARD

§ 152.01 BOARD ESTABLISHED; DESIGNATED.

(A) For the purpose of making a study of the resources, possibilities, and requirements of the city, and to make plans for its future development, the layout of its streets and proper housing of its people, a city Planning Board is hereby established under the provisions of R.S.A. Ch. 673.

(B) The Planning Board of Manchester shall be designated the City Planning Board.

('71 Code, § 19-1) (Ord. passed 5-18-54)

Statutory reference:

Authority of city to create Planning Board, see R.S.A. 673:1

§ 152.02 COMPOSITION OF BOARD.

The Planning Board shall consist of nine members, namely the Mayor, an administrative official of the city who shall be selected by the Mayor, and a member of the Board of Aldermen who shall be selected by it, as members ex officio, and six persons who shall be appointed by the Mayor and confirmed by the Board of Mayor and Aldermen.

('71 Code, § 19-3) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:2

§ 152.03 BOARD COMPENSATION; TERM; HOLDING OTHER OFFICES.

All members of the Planning Board shall serve without compensation and the appointed members shall hold no other municipal office except that one of such appointed members may be a member of the Zoning Board of Adjustment, and provided also that any of such appointed members may be a justice of the municipal court. The terms of ex officio members shall correspond to their respective official tenures, except the term of the administrative official, selected by the Mayor, shall terminate with the term of the Mayor selecting him. In the case of the appointed members, one member shall be appointed for one year, one for two years, one for three years, one for four years, one for five years, and one for six years. Thereafter, as the respective terms expire, appointments shall be made on May 1, for six year terms.

('71 Code, § 19-4) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:5 and 673:7

§ 152.04 REMOVAL OF BOARD MEMBERS.

Members of the Planning Board, other than the member selected by the Board of

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Aldermen, may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file with the City Clerk a written statement of reasons for such removal.

('71 Code, § 19-5) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:13

§ 152.05 FILLING OF BOARD VACANCIES.

Vacancies in the membership of the Planning Board, occurring otherwise than through the expiration of the stated term, shall be filled for the duration of the unexpired term in the manner originally designated in § 152.02 of this chapter.

('71 Code, § 19-6) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:12

§ 152.06 BOARD CHAIRMAN; MEETINGS; RULES OF PROCEDURE.

(A) The Planning Board shall elect its Chairman from the appointed members and create and fill such other offices as it may deem necessary for its work.

(B) The term of Chairman shall be one year with eligibility for reelection.

(C) The Planning Board shall hold at least one regular meeting in each month.

(D) The Planning Board shall adopt rules for the transaction of business and shall keep public records of its resolutions, transactions, findings, and determinations.

('71 Code, § 19-7) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:8 through 673:10

§ 152.07 BOARD EMPLOYEES; CONTRACTS WITH CONSULTANTS.

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(A) The Planning Board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provision of law as govern other corresponding civil employees of the municipality.

(B) The Planning Board may also contract with city planners, engineers, architects, and other consultants for such services as it may require.

('71 Code, § 19-8) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:16

§ 152.08 BOARD EXPENDITURES.

The expenditures of the Planning Board, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of Aldermen, who are hereby authorized and empowered to provide such funds, equipment, and accommodations as they may deem to be necessary or advisable for the Planning Board's work.

('71 Code, § 19-9) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:16

§ 152.09 MASTER PLAN AUTHORIZED.

It shall be the function and duty of the Planning Board to make and to perfect from time to time, so far as funds appropriated by the Board of Aldermen for such purpose will permit, a master plan for the development of the city, including any areas outside of its boundaries, which, in the Planning Board's judgment, bear relation to the planning of the city. Such master plan, with the accompanying necessary map, plats, charts, and descriptive matter, may be designed with the intention of showing as fully as is possible and practical, the Planning Board's recommendations for the desirable development of the territory, legally and logically within the scope of its planning jurisdiction. It shall include on that basis the general location, character, and extent of streets, tunnels, bridges, boulevards, parkways, roadways in streets and parks, playgrounds, squares, parks, aviation fields, and other public ways, places, grounds and open spaces, sites for public buildings, and other public property. It shall also include the routes of railroads, buses, and other forms of public transportation and the general location and extent of public utilities and terminals whether publicly or privately owned or operated, for water, light,

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heat, sanitation, transportation, communication, power, and other purposes; also the acceptance, removal, relocation, widening, narrowing, vacating, abandonment, change of use of or extension of any of the foregoing ways, grounds, places, open spaces, buildings, properties, utilities, or terminals and other planning features; as well as a zoning plan for the control of the height, area, bulk, location, and use of privately-owned and public structures, buildings, and premises, and of population density. Provision shall also be made for the general location, character, layout, and extent of community centers and neighborhood units and the general character, extent, and layout of the replanning of blighted districts and slum areas.

('71 Code, § 19-10) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 674:1

§ 152.10 PREPARATION OF MASTER PLAN.

In the course of the preparation of the master plan, the Planning Board may make careful and comprehensive surveys and studies of existing conditions and of data and information relative to the probable future growth of the city and its environs. The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with existing and probable future needs, best promote health, safety, morals, order, convenience, prosperity, or the general welfare, as well as efficiency and economy in the process of development. Included shall be adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

('71 Code, § 19-11) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:3

§ 152.11 ADOPTION AND AMENDMENT OF MASTER PLAN.

(A) The Planning Board may adopt the master plan as a whole by a single resolution or may, by successive resolutions, adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the city, or with functional subdivisions of the

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subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Such master plan shall be a public record, but its purpose and effect shall be solely to aid the Planning Board in the performance of its duties.

(B) The adoption of the master plan or any amendment thereof shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the Planning Board. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Planning Board to form the whole or part of the plan.

(C) The action taken shall be recorded on the adopted plan or part thereof approved by the identifying signature of the Chairman of the Planning Board, and a copy of the plan or part thereof shall be certified by the Board of Mayor and Aldermen.

('71 Code, § 19-12) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 673:4

§ 152.12 POWERS AND DUTIES OF BOARD GENERALLY.

(A) The Planning Board shall have power to promote public interest in and understanding of the master plan and of the official map of the city which may hereafter be established by the Board of Mayor and Aldermen. To that end they may publish and distribute copies of the master plan or such official map or of any report and may employ such other means of publicity and education as may be deemed advisable.

(B) Members of the Planning Board, when duly authorized by the Planning Board, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation and the Planning Board may, by resolutions spread upon its minutes, pay the reasonable traveling expenses incident to such attendance.

(C) The Planning Board shall have authority to make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as may seem desirable and advisable.

(D) The Planning Board, may from time to time, report and recommend to the appropriate public officials and public agencies programs for the development of the city, for the erection of public structures and improvements and for the financing thereof.

(E) It shall be a duty of the Planning Board to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, research, and other organizations, and with citizens with relation to the protecting or carrying out of the master plan

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and to make recommendations relating to the orderly growth and development of the city.

(F) The Planning Board shall have the right to accept and use gifts for the exercise of its functions.

(G) The Planning Board, its members, officers, and employees, in the performance of their functions, shall be authorized to enter upon any land and make such examinations and surveys as are reasonably necessary and place and maintain necessary monuments and marks thereon.

(H) In general, the Planning Board shall have such power and authority as may be necessary to enable said Board to fulfill its functions in promoting municipal planning and carrying out the purposes of this chapter, provided that the total expenditures of said Planning Board shall not exceed the appropriation for its expenses.

('71 Code, § 19-13) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 674:1

§ 152.13 COOPERATION WITH BOARD.

All public officials shall, upon request, furnish to the Planning Board within a reasonable period of time such available information as it may properly require for its work.

('71 Code, § 19-14) (Ord. passed 5-18-54)

§ 152.14 ZONING RECOMMENDATIONS OF BOARD.

The Planning Board may, from time to time, recommend to the Board of Mayor and Aldermen amendments of the Zoning Code, Chapter 155 of this Code of Ordinances, or zoning map or additions thereto to conform to the Board's recommendations for the zoning regulation of the territory comprised within approved subdivisions.

('71 Code, § 19-16) (Ord. passed 5-18-54)

Statutory reference:

For similar statutory provisions, see R.S.A 674:1

§ 152.15 ALTERNATES FOR REGULAR MEMBERS.

Provision is hereby made for the appointment of three alternate members to the Planning Board. Alternates shall be appointed in the same manner as other regular appointive members and shall serve for terms of three years and until their successors are appointed and qualified. Whenever a regular appointive member of the Planning Board is absent or disqualifies himself the chairman shall designate an alternate to act in his place.

('71 Code, § 19-17) (Ord. passed 4-5-88)

Statutory reference:

For similar statutory provisions, see R.S.A. 673:6

§ 152.16 ALTERNATE FOR ALDERMANIC MEMBER.

(A) In addition to the alternates provided in § 152.16, the Aldermen shall designate an alternate who shall be a member of the Board of Aldermen and whose term shall coincide with that of the regular aldermanic member and who shall serve in the absence or disqualification of the latter.

(B) The initial terms of the regular appointive alternate members whose appointment is provided for in § 152.16 shall be staggered so that no more than one appointment shall occur annually.

('71 Code, § 19-18) (Ord. passed 4-5-88)

INDUSTRIAL COUNCIL

§ 152.30 ESTABLISHMENT.

For the purpose of encouraging the welfare of local industries and promoting the establishment of new industries in metropolitan Manchester, an Industrial Council is hereby established.

('71 Code, § 19-27) (Ord. passed 8-2-60)

§ 152.31 COMPOSITION; APPOINTMENT; TERMS OF OFFICE.

The Industrial Council shall consist of 20 qualified members, one of whom shall be a member of organized labor, 15 of whom shall be residents of the city. They shall be appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen, for a term of six years. The Mayor and two members of the Board of Aldermen shall also serve as ex officio members of the Industrial Council, whose terms shall correspond to their respective tenure of office. The Aldermen shall be named by the Mayor subject to the approval of the Board of Aldermen.

('71 Code, § 19-28) (Ord. passed 8-2-60; Am. Ord. passed 1-4-83)

§ 152.32 INDUSTRIAL AGENT.

The Industrial Council may appoint an industrial agent for the promotion of industry. The industrial agent, so appointed, shall not later than one year from the date of his appointment, or the enactment of this section, establish and maintain his legal residence in the city. His salary and duties shall be determined by the Industrial Council.

('71 Code, § 19-29) (Ord. passed 8-2-60)

§ 152.33 ACQUISITION, DEVELOPMENT AND DISPOSAL OF INDUSTRIAL LAND AND FACILITIES (R.S.A. 162-G ADOPTED).

In accordance with R.S.A. 162-G-1, with public hearing having been held on April 5, 1999, the Board of Mayor and Aldermen of the city of Manchester do hereby adopt the provisions of R.S.A. Ch. 162-G, Acquisition, Development and Disposal of Industrial Land and Facilities.

(Ord. passed 4-20-99)

PUBLICITY AND DEVELOPMENT

§ 152.45 BUREAU ESTABLISHED.

A Bureau of Publicity and Development of the city is hereby established.

('71 Code, § 19-40)

§ 152.46 FUNCTION OF BUREAU.

The Bureau of Publicity and Development of the city is authorized to advertise and promote the city and to further its interests.

('71 Code, § 19-41)

§ 152.47 BOARD ESTABLISHED; COMPOSITION.

A Board of Publicity and Development is hereby created which shall consist of the Mayor, as Chairman, and the Board of Mayor and Aldermen.

('71 Code, § 19-42)

§ 152.48 AUTHORITY OF BOARD.

(A) The Board of Publicity and Development shall have the entire management of the affairs of the Bureau of Publicity and Development and shall have full and final expenditure of all moneys which may be appropriated for purposes of publicity and development.

(B) The Board of Publicity and Development shall have the power to appoint such persons as may be necessary to carry out its purposes and to compensate said persons for their services.

('71 Code, § 19-43)

CHAPTER 153: SUBDIVISIONS

Section

- 153.01 Authority to regulate
- 153.02 Certificate of authorization
- 153.03 Regulations required
- 153.04 Site plans

§ 153.01 AUTHORITY TO REGULATE.

The Planning Board is hereby authorized and empowered to approve or disapprove, in its discretion, plats and to approve or disapprove plans showing the extent to which and the manner in which streets within subdivisions shall be graded and improved and to which streets, water, sewer, and other utility mains, piping, connections or other facilities within subdivisions shall be installed.

('71 Code, § 23-1) (Ord. passed 2-19-85)

Statutory reference:

For similar statutory provisions, see R.S.A. 674:35

§ 153.02 CERTIFICATE OF AUTHORIZATION.

The City Clerk shall forthwith file with the register of deeds of Hillsborough County a certificate of notice showing that the Planning Board has been so authorized, giving the date of such authorization.

('71 Code, § 23-2) (Ord. passed 2-19-85)

§ 153.03 REGULATIONS REQUIRED.

Before the Planning Board exercises its powers referred to in § 153.01, the Planning Board shall adopt subdivision regulations governing the subdivision of land as set forth in R.S.A.

674:36.

('71 Code, § 23-3) (Ord. passed 2-19-85)

Statutory reference:

For similar statutory provisions, see R.S.A. 674:36

§ 153.04 SITE PLANS.

(A) The Planning Board is hereby authorized and empowered to review, and approve or disapprove site plans for the development of tracts for nonresidential uses, or for multifamily dwelling units, which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. ('71 Code, § 23-4)

(B) The City Clerk shall forthwith file with the register of deeds of Hillsborough County a certificate of notice showing that the Planning Board has been so authorized giving the date of such authorization.

('71 Code, § 23-5)

(C) Before the Planning Board exercises its powers referred to in division (A) of this section, the Planning Board shall adopt site plan review regulations as set forth in R.S.A. 674:44. ('71 Code, § 23-6)

(Ord. passed 2-19-85)

Statutory reference:

For similar statutory provisions, see R.S.A. 674:43, 44

CHAPTER 154: AIRPORT ZONING

Section

General Provisions

154.01 Definitions

General Regulations

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- 154.11 Height limits
- 154.12 Height permitted
- 154.13 Use restrictions
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GENERAL PROVISIONS

§ 154.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRPORT. Any area of land or water, whether constructed or not, which has been approved by the Director as a site for the landing and taking off of aircraft or utilized or to be utilized by the public as a point of arrival or departure by air.

AIRPORT HAZARD. Any structure, tree, smoke, steam, dust, or other substance which obstructs the aerial approaches of a publicly owned airport or impairs the reasonable visibility in the vicinity thereof, electrical impulses and disturbances which interfere with radio aids or communications and lights which might result in glare in the vision of pilots of aircraft or be confused with airport lights.

AIRPORT REFERENCE POINT. At the control tower and its elevation is 233 feet above sea level.

APPROACH ZONE. The approach area to a runway and landing strip having dimensions as hereinafter described and the center line of which coincides with the center line of the runway and landing strip extended. (The dimensions of the runways are: N/S 7000 feet by 150 feet; NW/SE 5430 feet by 150 feet NE/SW 5850 feet by 150 feet; each of the landing strips

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is 500 feet wide and the same length of the runway.)

NONCONFORMING USE. Any structure, tree, or use of land which does not conform to a regulation prescribed in this chapter or an amendment thereto, as of the effective date of such regulations.

PERSON. Any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

STRUCTURE. Any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

TREE. Any object of natural growth.

('71 Code, Appendix A, § 1) (Ord. passed 6-4-57)

Statutory reference:

Similar definitions, see R.S.A. 424:1

GENERAL REGULATIONS

§ 154.10 ZONES.

In order to carry out the purposes of this chapter, all of the land in the city within the boundaries of the approach zones and all of the land within a distance of 100,000 feet from the airport reference point is hereby declared subject to the restrictions of this chapter, in accordance with the Grenier Air Force Base Airport Approach Plan adopted by the N.H. Aeronautics Commission on February 25, 1957.

('71 Code, Appendix A, § 2) (Ord. passed 6-4-57)

§ 154.11 HEIGHT LIMITS.

No structure or tree shall be erected, altered, or allowed to grow within the areas referred to in § 154.10, to wit:

(A) In the approach area to the N/S runway which are 1500 feet wide at 1000 feet from the end of the pavement of 4000 feet wide at 10,000 feet, an inclined plane of 50:1 slope;

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200 feet above the runway end from 10,000 feet to 25,000 feet; 500 feet above the runway end from 25,000 feet to 50,000 feet; in the approach areas to the NW/SE and NE/SW runways, which are 500 feet wide at a point 200 feet from the ends of the runways and 2400 feet wide at 10,000 feet out from this point, an inclined plane of 40:1 slope.

(B) On the sides of the landing strips and approach areas, an incline plane of 7:1 slope.

(C) Three hundred eighty three feet above sea level (150 feet above the airport) within 10,000 feet of the airport reference point.

(D) Four hundred thirty three feet above sea level (200 feet above the airport) from 10,000 feet to 25,000 feet from the airport reference point.

(E) Seven hundred thirty three feet above sea level (500 feet above the airport) from 25,000 feet to 50,000 feet from the airport reference point.

(F) An inclined plane of 100:1 slope from the periphery of the horizontal surface of 500 feet above the airport for a distance of 100,000 feet measured horizontally from the airport reference point.

('71 Code, Appendix A, § 3) (Ord. passed 6-4-57)

Penalty, see § 154.99

§ 154.12 HEIGHT PERMITTED.

No provision of § 154.11 shall limit the height of a structure or tree to less than 30 feet above the ground upon which it is located.

('71 Code, Appendix A, § 4) (Ord. passed 6-4-57)

§ 154.13 USE RESTRICTIONS.

Notwithstanding any other provisions of the Zoning Code, no use may be made of the land described in § 154.10 hereof in such manner as to create electrical interference with radio aids or communications between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport by the creation and discharge of smoke, steam, dust, or other obstructions to visibility or otherwise endanger the landing, taking-off, or maneuvering of

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aircraft.

('71 Code, Appendix A, § 5) (Ord. passed 6-4-57)

Penalty, see § 154.99

§ 154.14 PERMITS.

(A) *Future uses.* No material change in violation of §§ 154.11 or 154.13 hereof shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established in violation of §§ 154.11 or 154.13 hereof in any of the areas of land described in § 154.10 hereof, unless a permit therefor shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted.

(B) *Existing uses.* Before any existing use, structure, or tree may be replaced, substantially altered, or repaired, rebuilt, allowed to grow higher, or replanted, within any of the areas of land described in § 154.10 hereof, a permit must be secured authorizing such replacement, change or repair if it is in violation of §§ 154.11 or 154.13. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this chapter or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of existing use, structure, or tree shall be granted.

('71 Code, Appendix A, § 8) (Ord. passed 6-4-57)

§ 154.15 HAZARD MARKING AND LIGHTING.

Any permit or variance granted under §§ 154.14 or 154.27 may, if such action is deemed advisable to effectuate the purposes of this chapter and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the present owner or lessor at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. ('71 Code, Appendix A, § 9) (Ord. passed 6-4-57)

§ 154.16 NONCONFORMING USES.

The regulations prescribed in §§ 154.11 and 154.13 of this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure and the construction or alteration, of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two years thereof.

('71 Code, Appendix A, § 6) (Ord. passed 6-4-57)

ADMINISTRATION AND ENFORCEMENT

§ 154.25 ADMINISTRATION.

The office of the Superintendent (Commissioner) of Buildings is hereby designated as the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed. The duties of the Superintendent (Commissioner) of Buildings shall include that of hearing and deciding all permits under § 154.14 of this chapter, but shall not include any of those powers or duties herein delegated to the Board of Adjustment.

('71 Code, Appendix A, § 10) (Ord. passed 6-4-57)

§ 154.26 BOARD OF APPEALS.

The Board of Adjustment is hereby designated as the Board of Appeals and shall have the duties and powers as set forth in R.S.A. 31:68-86 inclusive.

('71 Code, Appendix A, § 11) (Ord. passed 6-4-57)

§ 154.27 VARIANCES.

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Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter, may apply for a variance therefrom. Such variance shall be allowed where a literal application of enforcement of these regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice, and be in accordance with the spirit of this chapter.

('71 Code, Appendix A, § 7) (Ord. passed 6-4-57)

§ 154.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding the maximum allowed by R.S.A. 47:17 or other law. Each day a violation occurs or continues shall constitute a separate offense.

('71 Code, § 17¾-1)

CHAPTER 155: ZONING CODE

Section

- 155.01 Continued in effect
- 155.02 Fees for appeal to Board of Adjustment
- 155.03 Notice of hearing on rezoning amendments

§ 155.01 CONTINUED IN EFFECT.

Nothing in this code of ordinances or the ordinance adopting it shall be construed to repeal or otherwise affect the zoning ordinance of the city as adopted by an ordinance enacted January 5, 1965, and as subsequently amended, and the same is hereby continued in full force and effect.

§ 155.02 FEES FOR APPEAL TO BOARD OF ADJUSTMENT.

The following fee are hereby established for Zoning Board of Adjustment applications:

\$350	Change of use variance
350	Multi-use variance
350	Planned developments
350	Nonconforming subdivisions
350	Unaccepted way
150	All other variances, special exceptions, administrative appeals, equitable waivers
35	Rehearing and subsequent application requests

(Ord. passed 10-17-06)

§ 155.03 NOTICE OF HEARING ON REZONING AMENDMENTS.

No zoning ordinance amendment shall be adopted without a public hearing as required in R.S.A. 675:2. Notice of the public hearing for rezoning amendments shall be not less than four inches in width and three inches in length. Prior to publication of said notice, the person requesting the same shall pay the cost of publication as determined by the City Clerk.

(Ord. passed 8-5-86)